

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:) Case No. 10-17252
)
George C. Daher,) Chapter 7 Case
)
Debtor(s).) Judge Morgenstern-Clarren

**TRUSTEE'S MOTION FOR AUTHORITY TO COMPROMISE
CONTROVERSY WITH DEBTOR(S)**

Now comes Waldemar J. Wojcik, Chapter 7 Trustee, by and through his counsel, and hereby moves this Court pursuant to the provisions of Rule 9019 of the Federal Rules of Bankruptcy Procedure for an Order authorizing him to compromise the following controversy with debtor for the following reasons and under the following terms:

1. Your movant is the duly appointed, qualified and acting Trustee of the estate of the debtor(s).
2. The debtor(s) filed his/her/their voluntary petition for relief under Chapter 7 of the Bankruptcy Code on July 24, 2010. A no asset report was filed on September 7, 2010 and the case was closed on November 2, 2010.
3. On March 25, 2013, a motion to reopen the case was filed due to a newly discovered asset. The asset consists of \$51,022.37 of funds from an uncashed insurance settlement check. The funds were on deposit with the State of Ohio Division of Unclaimed Funds (hereinafter the "Funds"). An agreed order reopening the case was entered on the docket on May 24, 2013.

4. An adversary complaint seeking turnover of said Funds was filed on October 9, 2013 and assigned adversary case number 13-1232. Judgment was entered in favor of Plaintiff/Trustee finding that the Funds were property of the estate and ordering Debtor and his counsel, the custodian of the IOLTA account in which the Funds were deposited, to turnover said Funds to the Trustee (herein after "Judgment"). This motion addresses adversary case number 13-1232 only. It does not propose to resolve any other disputes, issues or claims in this bankruptcy case.

5. Defendant/Debtor appealed the Judgment to the Bankruptcy Appellate Panel for the Sixth Circuit. The appeal was filed on May 5, 2014 and was assigned case number 14-8028. The Bankruptcy Appellate Panel affirmed the Judgment.

6. At the time this agreement was reached, the Defendant/Debtor had a right to file a further appeal of said Judgment.

7. This is a surplus case. A current distribution in this case would pay \$16,599.99 to Debtor after payment of claims, the Trustee fees and expenses and Trustee's counsel's fees and expenses.

8. In order to resolve this matter, to avoid further costs of litigation, and to permit prompt distribution to creditors, the parties have agreed, subject to Court approval, to permit Debtor to retain \$18,300 of the Funds, essentially paying him an additional \$1,700 in return for his agreement to refrain from further appeal or litigation in this case. The Debtor would remit to the Trustee \$32,722.37 within 5 days of the execution of an order granting this Motion.

9. In exchange for the respective division of the Funds as described herein, the parties will execute the Settlement and Release Agreement, a copy of which is attached hereto as Exhibit A. The Trustee shall proceed to prepare and file his Final Report for approval by the U.S. Trustee and this Court and may distribute the \$32,722.37 consistent with said Final Report and Court Orders approving same.

10. The Trustee submits that this compromise represents a fair and reasonable settlement given the costs and risks of further litigation in this matter and the delay associated with the further litigation of this matter.

WHEREFORE, your movant prays this Court for an Order authorizing his motion to compromise the controversy with debtor(s) according to the terms and conditions set forth herein, and for such other and further relief as this Court may deem just.

/s/Lauren A. Helbling (0038934)
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Cleveland, OH 44113
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the foregoing Motion to Compromise Controversy was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

- John W. Gold jgold@jwg-law.com
- Lauren A Helbling lauren@helblinglpa.com
- United States Trustee (Registered address)@usdoj.gov
- Waldemar J Wojcik wwojcik@wojciklpa.com, wwojcik@ecf.epiqsystems.com

And by regular U.S. Mail, postage pre-paid, to all parties in interest on the attached service list this 15th day of January, 2015.

/s/Lauren A. Helbling (0038934)

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